

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Revision Petitions – Prakasam District – Revision Petition filed by Smt. Ulich Lakshamma (died) by L.Rs. Sri Ulich Venkata Rao, against the Proceedings No.BCW1/4/2008, dated: 31-12-2008 of the Commissioner (Appeals), O/o the Chief Commissioner of Land Administration, AP, Hyderabad – Revision – Dismissed – Orders – Issued.

REVENUE (ASSIGNMENTS.VI) DEPARTMENT

G.O.Ms.No. 593

Dated:01-10-2012
Read the following:

1. Revision Petition filed by Smt.Ulich Lakshamma (died) by L.Rs. Sri Ulich Venkata Rao, dated: 11-02-2009.
2. Government Memo.No.6548/Assn.VI/2009-1, dated: 07-07-2009.
3. Government Memo.No.6548/Assn.VI/2009-2, dated: 06-08-2009.
4. Government Memo.No.6548/Assn.VI (1)/2009-3, dated:10-11-2010.
5. From the Collector & District Magistrate, Prakasam District, Rc.E2.3599.2009, dated: 17-09-2011, addressed to the Government through the Commissioner of Appeals, O/o the CCLA, AP, Hyderabad.
6. Government Memo.No.6548/Assn.VI/2009-4, dated: 08-02-2012.
7. From the Tahsildar, Chinaganjam, Rc.B/1050/2001, dated: 31-03-2012 addressed to the Government through the Collector & District Magistrate, Prakasam District.
8. Government Memo.No.6548/Assn.VI/09-5, dated: 17-08-2012.

ORDER:

In the reference 1st read above, Sri Ulich Venkata Rao, S/o late Smt.Ulich Lakshamma, R/o China Ganjam Village and Mandal, Prakasam District has filed a Revision Petition before the Government against the Proceedings No.BCW1/4/2008, dated:31-12-2008 of the Commissioner, Appeals, O/o the Chief Commissioner of Land Administration, AP, Hyderabad, wherein the Appeal filed by Sri Ulich Venkata Rao, S/o late Smt.Ulich Lakshamma, against the orders of the Joint Collector, Prakasam District, passed in D.Dis.E2/5548/2003, dated: 08-11-2007, was dismissed. In the Revision Petition Sri Ulich Venkata Rao, S/o late Smt.Ulich Lakshamma, has made Smt.Ulich Sarojanamma, W/o Subbaiah, as 5th Respondent.

2. Originally the land in Sy.No.461 of Chinaganjam Village is classified as "Sona Poramboke" in Village records. An extent of Ac.0.21 cents in Sy.No.461/2 of the village was granted temporary permission for cultivation purpose for the Fasli 1411 to Smt.Ulich Lakshamma, W/o Ramakrishnaiah, Sopirala Village of Chinaganjam Mandal vide L.Dis.715/2000, dated:24-07-2001 by the then Mandal Revenue Officer, Chinaganjam.

3. Aggrieved by the above order Smt. Ulich Sarojanamma W/o Subbaiah, Chinaganjam Village filed an appeal before the Revenue Divisional Officer, Ongole requesting for cancellation of the above order dated: 24-07-2001. The main ground put forth by her is that the land in question was under occupation of late Ulich Venkataramaiah till his demise, and that after his death, the land is under occupation of his three sons, Viz., Ramakrishnaiah, Subbaiah and Kotaiah equally, and that the three brothers have divided their properties on equal shares and thus Smt. Lakshamma is not entitled for grant of the said land measuring Ac.0.21 cents solely in her favour. The Revenue Divisional Officer, Ongole opined that the land in question in under

Contd..p..2..

the possession and enjoyment of the three brothers equally, and it is improper and unjust to issue T.P only in favour of Smt. Late Ulich Lakshamma. The Revenue Divisional Officer, Ongole has cancelled the T.P granted in favour of Smt. Ulich Lakshamma for an extent of Ac.0.21 cents in SY.No.461/2 of Chinaganjam Village by the Mandal Revenue Officer, Chinaganjam and directed the M.R.O, Chinaganjam to initiate action to assign the land measuring Ac.0.21 cents in SY.No.461/2 of Chinaganjam to the family members of Late Ramakrishnaiah, Late Subbaiah and Sri Kotaiah equally if eligible vide his D.Dis.36/2002, dt.02-08-2003.

4. Aggrieved by the orders of the Revenue Divisional Officer, Ongole, Smt. Ulich Lakshamma has filed Revision Petition before the Joint Collector on 20-10-2003, and the Revision Petition was disposed with a observation that prima facie the land in Sy.No.461/2 of Chinaganjam Village is classified as Sona Poramboke which comes under water course porambokes. The validity of the temporary permission issued by the Mandal Revenue Officer in his L.Dis.715/2000, dated.24-07-2001, for the fasli 1411 only. There is no validity for further extension of Sona Poramboke land. According to the ban orders imposed by the Government relating to water course porambokes, the orders of the M.R.O, Chinaganjam is null and void. Sona Poramboke also comes under water poramboke and temporary permission cannot be taken into consideration for further enjoyment of the temporary permission holder. Temporary permissions are not valid by any law. Accordingly the orders of the Revenue Divisional Officer, Ongole were set-aside, by the Joint Collector and further directed the Tahsildar, Chinaganjam, to take possession of the land in S.No.461/2 Ac.0.21 cents of Chinaganjam Village in favour of Government duly entering it into P.O.B and disposed the Revision Petition vide Joint Collector's Proceedings D.Dis.E2/5548/2003, dt.08-11-2007.

5. Aggrieved by the above orders of the Joint Collector, Prakasam Sri Ulich Venkata Rao, S/o. late Smt. Ulich Lakshamma Late, has filed an appeal before the Commissioner of Appeals, O/o. CCLA, A.P, Hyderabad and the Commissioner, Appeals, vide his Proceedings No.BCW1/4/2008, dated:31-12-2008 dismissed the Appeal on the ground that the land in question is classified as Sona Poramboke, which comes under water course porambokes and upheld the Proceedings of the Joint Collector, Prakasam District, No.D.Dis.E2/5548/2003, dated:08-11-2007.

6. Aggrieved by the Proceedings of the Commissioner of Appeals, O/o the CCLA, AP, Hyderabad, the present Revision Petition was filed by Sri Ulich Venkata Rao, S/o. Smt. Ulich Lakshamma, before the Government on the following main grounds, among others, in support of his Revision Application:

- a) It is submitted that the Revenue Divisional Officer, Ongole by his order dt.02-08-2003 has directed to take action for assigning the land to the family members of late Ramakrishnaiah and late Subbaiah equally having failed to see that the patta was issued in the name of the schedule land under the personal cultivation of the appellants father initially and after his death to his mother who is raising the crop in the schedule land situated in SY.No.461/2 in an extent of 0.21 cents of Chinaganjam Village.

- b) It is submitted that while the scope of Revision before the Joint Collector, 2nd respondent is that whether the Revenue Divisional Officer is correct in directing assignment to the sons of Late Ramakrishnaiah is correct or not when in fact the schedule land was under the occupation of Sri Ramakrishnaiah and other family members such as Sri Kotaiah and Subbaiah has nothing to do with the schedule land.
- c) It is submitted that the Revisional authority, the learned Joint Collector, Ongole has not given any opportunity before enlarging the scope and had an opportunity being given to these appellants/revision petitioners it could have been demonstrated that the schedule land though classified as "Sona Poramboke" there was no such sona or spring in the schedule land and was situated in different Survey numbers being cultivated by one Sri Toguri Rajaratnam and sons and for them pattas have already been granted and the same has not been cancelled.
- d) It is submitted that in so far as the availability of water for irrigation facilities for the said village is concerned, at present, the villagers are watering their lands from the lift, which is 1 K.M, away and the same is also being called as "Romperu" Vagu and from there water being pumped to our land and other lands in an ayacut of 500 Acres part from N.S.C Canals which was also situated 1 ½ K.M, away and as such the so-called sona poramboke being cultivated does not prejudice the availability of water of Irrigation facilities.
- e) It is submitted that though in the main revision the mother of the appellant Smt.Ulchi Lakshamma has died on 12-11-2005, by oversight the same was not brought to the notice of the 1st respondent and as such the present appeal is being filed as the legal heir of the revision petitioner before the 1st respondent herein.
- f) It is submitted that the petitioner was also advised to file necessary application before the 2nd respondent to amend the cause title in view of the law of limitation in the present revision.
- g) It is submitted that with the aforesaid averments the petitioner has filed an appeal against the orders of Joint Collector, Ongole, dt.8-11-2007 and the Hon'ble Chief Commissioner of Land Administration (Appeals) on a total non-application of mind has passed the impugned order and hence the present revision petition.
- h) It is submitted that the learned Commissioner of Land Revenue has not taken into consideration the averments in the appeal and has merely referred to the classification of the land as being sona poramboke and having failed to see that it was a case of wrong classification as being no spring in the schedule land and other adjacent lands and as a matter of fact alternative irrigation facilities are very much availability from a lift irrigation facilities are very much availability from a lift irrigation scheme and hence the present revision petition.

- i) It is submitted that these petitioners have been in peaceful enjoyment of the schedule land prior to 70-80 years and the proceedings in 2002 are only formal in nature and hence if at this juncture the proceedings are not interfered with, the revision petitioner will suffer serious and irreparable loss.

7. The petitioner has therefore prayed that the Hon'ble authority may be pleased to grant stay of all further proceedings pursuant to proceedings in No.BCWI/4/2008 dt.31-12-2008 of the Commissioner, Appeals, O/o. CCLA, A.P, Hyderabad upholding the proceedings in D.Dis.No.E2/5548/2003 dt.08-11-2007 of the Joint Collector, Prakasam who upheld the proceedings in D.Dis.No.36/2002 dt.02-08-2003 issued by the R.D.O, Ongole, pending disposal of the above revision petition and pass such order or consequential orders as deemed fit and proper to meet the ends of justice.

8. The Revision Petition was admitted and connected records and remarks were called for from the Collector & District Magistrate, Prakasam District. Subsequently, the case was posted for hearing on 05-09-2012. The Revision Petitioner along with his Counsel and a representative on behalf of Respondent (5) have attended the hearing. The Counsel for the Revision Petitioner argued and reiterated the grounds put forth in the Revision Petition and requested to set aside the Proceedings.

9. After having heard the arguments on the Revision Petition and on perusal of records made available in the matter, it is observed that the land in question is classified as "Sona Poramboke" in village accounts, which comes under water course porambokes. As per Board's Standing Orders 15(4)(ii)(h), the assignment of water course porambokes is prohibited. Sona Poramboke also comes under water poramboke and temporary permission cannot be taken into consideration for further enjoyment of the temporary permission holder. Further, the Supreme Court of India in Hinch Lal Tiwari Vs. Kamala Devi (2001 (6) SCC 496) and the Hon'ble High Court of Andhra Pradesh in WP No.9250/01, dated: 14-03-02 held that the water bodies should be safeguarded for protection and improvement of environment. Further during the arguments it is observed that Sri Ulich Venkata Rao, legal heir of late Smt. Ulich Lakshamma, is an employee in APSRTC and as such he is not eligible for assignment.

10. In view of the above, it is found that there is no valid reason to interfere with the Proceedings No.BCW1/4/2008, dated:31-12-2008 passed by the Commissioner (Appeals), O/o the Chief Commissioner of Land Administration, AP, Hyderabad, and accordingly the Revision Petition filed is hereby dismissed.

11. The Collector & District Magistrate, Prakasam District shall take necessary action in the matter, accordingly.

12. The records received through the letter 5th read above are returned herewith to the Collector & District Magistrate, Prakasam District.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Prakasam District,
Ongole. (w.e. original records)(by RPAD)

Contd..p..5..

// 5 //

Sri Ulich Venkata Rao, S/o Late Ulich Lakshamma,
R/o Chinaganjam Village & Mandal,
Prakasam District.

through: The Tahsildar, Chinaganjam (M),
Prakasam Dist. (by RPAD)

Sri Ulich Sarojanamma, W/o Subbaiah,
R/o Chinaganjam Village & Mandal,
Prakasam District.

through: The Tahsildar, Chinaganjam (M),
Prakasam Dist. (by RPAD)

The Commissioner (Appeals),
O/o the Chief Commissioner of Land Administration,
AP, Hyderabad.

The Joint Collector, Ongole. Prakasam Dist.

The Revenue Divisional Officer, Ongole. Prakasam District.

The Tahsildar, Chinaganjam Mandal, Prakasam District.

Copy to:

Sri Kasim Saheb, Advocate,
C/o V.Malik, 1-1-2/3, Jawaharnagar,
RTC 'X' Roads, Hyderabad – 500020.

The P.S to Principal Secretary to Government,
Revenue Department

Sf/Sc

// forwarded by order //

SECTION OFFICER